IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 4TH SEPTEMBER 2007 / 13TH BHADRA 1929

OP.No. 8160 of 1998(U)

PETITIONER:

C.G.VENKITESWARA PAI, 43/353,
P.H.EXTENSION ROAD,ERNAKULAM,
KOCHI 682018.

BY ADV. S.EASWARAN

RESPONDENT:

STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.BENJAMIN PAUL.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 04/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP NO.8160/1998

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: COPY OF JUDGMENT DATED 12.1.1998 IN OP NO.19068 OF 1997-T

EXT.P2: COPY OF PETITION DTED 21.1.1998 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT.

EXT.P3: COPY OF PROCEEDINGS NO.2549/H1/98/TD DATED 26.3.1998 ISSUED BY THE RESPONDENT.

//TRUE COPY//

ANTONY DOMINIC, J.
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O.P NO. 8160 OF 1998
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Dated this the 4th day of September, 2007

J U D G M E N T

This writ petition is filed praying for quashing Exhibit P3 and to direct the respondent to effect payment of amount of Rs.2,34,677 being the balance amount claimed to be due to the petitioner.

2. Petitioner is a lottery agent. It is submitted by both sides that in terms of the rules, an agent like the petitioner is required to lodge his claim within 30 days from the date of the draw and in this case, the petitioner had lodged a much belated claim for Rs.6,02,201/-. The Government considered the claim of the petitioner and condoned the delay upto 180 days and effected payment of Rs.3,74,999/- and rejected his claim for the balance amount as belated. The petitioner thereupon filed a writ petition in this court as OP 19068/97, which was disposed of by Ext.P1

judgment allowing the petitioner to make a representation to the 1st respondent seeking condonation of delay for the period beyond 180 days. The 1st respondent was also directed to consider the representation of the petitioner within one month thereafter. In pursuance to the said judgment, the petitioner submitted Ext.P2 representation. The only reason projected by the petitioner for condonation of delay was that the entire members of his staff were on strike for the period from September 1995 to May 1996 and therefore the petitioner could not lodge his claim in time. This was considered by the Government and by Ext.P3, the same was rejected. It is challenging Ext.P3 and seeking a direction for payment, this writ petition has been filed.

3. The respondent has filed a counter affidavit in which it is stated that in terms of the rules, based on the recommendation of the Director of Lotteries, the Government is to consider any request for condonation of

delay. According to the respondent, in the case of the petitioner, although the Director of the State Lotteries did not recommend his case on the reason put forth by him considering that the petitioner is a reputed lottery agent, Government took a lenient view and delay was condoned upto 180 days. According to the respondent, it was on that basis that the payment of Rs.3,74,999/- was sanctioned and released. Respondent would submit that the reason stated by the petitioner was unsatisfactory since during the period September 1995 to May 1996, the petitioner was doing business as usual with more than five offices simultaneously. Therefore the reason projected by the petitioner was found to be unsatisfactory and on that basis Ext.P3 order was issued.

4. I have considered the submissions made by both sides. Rule 67 of the Kerala State Lotteries Rules, 1977 provide that belated claims for the prize amounts beyond

the period specified will be entertained by the Government on the recommendation of the Director, as special cases, provided sufficient reasons are assigned for such belated claims. The Rule therefore requires recommendation of the Director and sufficient reasons to the satisfaction of the Government. In this case, the only reason projected by the petitioner is that his employees were on strike from September 1995 to May 1996. This was examined by the Government and the Government have found that during the period in question, the petitioner was carrying on business as usual from his five offices and that the alleged strike had not affected his functioning in any manner. Therefore the reason stated by the petitioner was found to be insufficient and unsatisfactory to both the Director and the Government. Despite that, leniency was shown to the petitioner and delay upto 180 days, even in the absence of a recommendation from the Director, was condoned and

amount has been paid. Petitioner has not succeeded in demonstrating that the finding of the respondent regarding sufficiency of the reason for condonation of delay is erroneous or arbitrary.

5. The finding of the respondent that the reason projected by the petitioner was not genuine and was contrary to the real facts is not arbitrary or perverse warranting interference under Article 226 of the Constitution of India. Therefore, I do not find that Ext.P3 is to be invalidated on the grounds urged by the petitioner.

The writ petition lacks merits and it is dismissed.

ANTONY DOMINIC, JUDGE.

Rp